



US Army Corps  
of Engineers  
Seattle District

# Public Notice of Application for Permit

## Regulatory Branch

Post Office Box 3755

Seattle, Washington 98124-3755

Telephone (206) 764-3495

ATTN: Susan Powell, Project Manager

Public Notice Date: May 31, 2005

Expiration Date: June 29, 2005

Reference: 200401476

Name: Powell, Lloyd and Sharon

---

Interested parties are hereby notified that an application has been received for a Department of the Army permit in accordance with Section 10 of the Rivers and Harbors Act of 1899, and Section 404 of the Clean Water Act for certain work described below and shown on the enclosed drawings.

**APPLICANT:** Lloyd and Sharon Powell  
1713 White Point Road  
Friday Harbor, Washington 98250  
Telephone: (360) 378-1958

**AGENT:** Donna P. Gavora  
Gavora, Inc.  
Post Office Box 2838  
Friday Harbor, Washington 98250  
Telephone: (360) 378-4348

**LOCATION:** In Westcott Bay near Roche Harbor, San Juan County, Washington.

**WORK:** Construct a marine railway. Eighteen piles will be drilled into the substrate and filled with concrete.

**PURPOSE:** To provide private boat moorage.

**ENDANGERED SPECIES:** The Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of ESA on all actions that may affect a species listed or proposed for listing under the ESA as threatened or endangered or any designated critical habitat. The bald eagle (*Haliaeetus leucocephalus*) threatened, marbled murrelet (*Brachyramphus marmoratus*) threatened, coastal/Puget Sound bull trout (*Salvelinus confluentus*) threatened, Puget Sound chinook (*Oncorhynchus tshawytscha*) threatened, Steller sea lion (*Eumetopias jubatus*) threatened, humpback whale (*Megaptera novaeangliae*) endangered, leatherback sea turtle (*Dermochelys coriacea*) endangered, and killer whale (*Orcinus orca*) proposed threatened in the state of Washington, may occur in the proposed project area. For marbled murrelet critical habitat has been designated and for Chinook critical habitat has been proposed.

After receipt of comments from this public notice, the U.S. Army Corps of Engineers (Corps) will evaluate the potential impacts to the bald eagle, marbled murrelet, bull trout, Chinook, Steller sea lion, humpback whale, killer whale, and leatherback sea turtle.

**ESSENTIAL FISH HABITAT:** The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all

actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed action would impact approximately 732 square feet of EFH for Pacific salmon, Groundfish, and Coastal Pelagic Species in the project area.

The Corps has determined that the proposed action will not adversely affect designated EFH for federally managed fisheries in Washington waters. No further EFH consultation is necessary.

**CULTURAL RESOURCES:** The District Engineer has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible and other sources of information. Known historic properties occur in the vicinity of the proposed project. However, they do not occur in the permit area. The proposed work is of such a limited nature and extent that little likelihood exists for the proposed project to impinge upon an undisturbed historic property.

The District Engineer invites responses to this public notice from Native American Nations or tribal governments; Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns with historic properties in the area. This public notice initiates consultation under Section 106 of the National Historic Preservation Act (36 CFR 800.4[a][3]), with any Tribe that has information or concerns with historic properties in the proposed permit area.

**PUBLIC HEARING:** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Native American Nations or tribal governments; Federal, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

The proposed discharge will be evaluated for compliance with guidelines promulgated by the Environmental Protection Agency under authority of Section 404(b)(1) of the Clean Water Act. These guidelines require an alternatives analysis for any proposed discharge of dredged or fill material into waters of the United States.

**ADDITIONAL EVALUATION:** The State of Washington is reviewing this work for consistency with the approved Washington Coastal Zone Management Program and for compliance with the applicable State and Federal water quality standards pursuant to Section 401 of the Clean Water Act.

200401476

This proposal is the subject of Shorelines Substantial Development Permit No. 04SJ019 which has been issued by San Juan County.

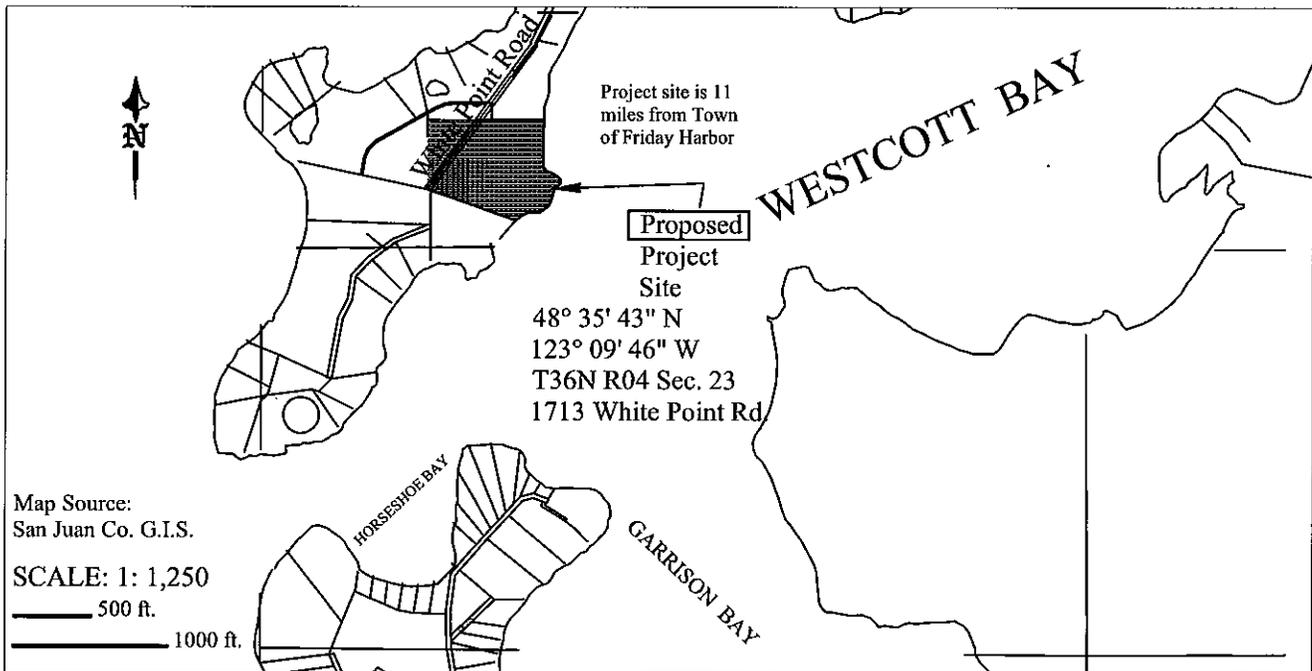
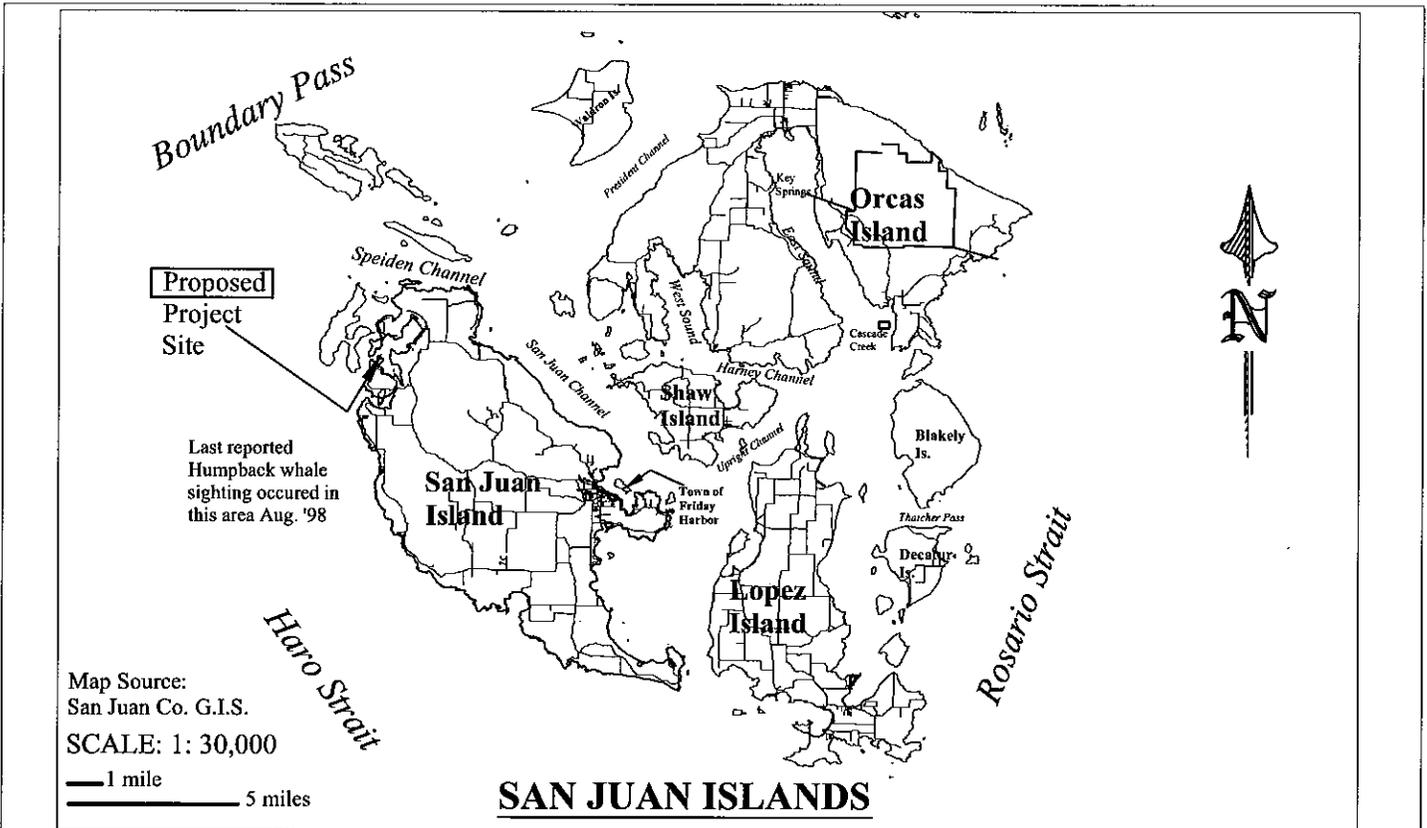
**COMMENT AND REVIEW PERIOD:** Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. All e-mail comments should be sent to [Susan.M.Powell@usace.army.mil](mailto:Susan.M.Powell@usace.army.mil).

Conventional mail comments should be sent U.S. Army Corps of Engineers, Regulatory Branch, Post Office Box 3755, Seattle, Washington, 98124-3755. Both conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below, and the commentor's name, address, and phone number. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number:

Powell, William and Sharon, 200401476

Encl

Drawings (3)



**PURPOSE:** Gain access to Westcott Bay  
**DATUM:** N.O.S. MLLW=0'

**ADJACENT PROPERTY OWNERS:**  
# 462334002 Marion's on the Bay  
1803 Third St.  
Auburn, WA 98002  
# 462334001 Jessica L. Erickson, ttec  
P.O. Box 389  
Mercer Is., WA 98040

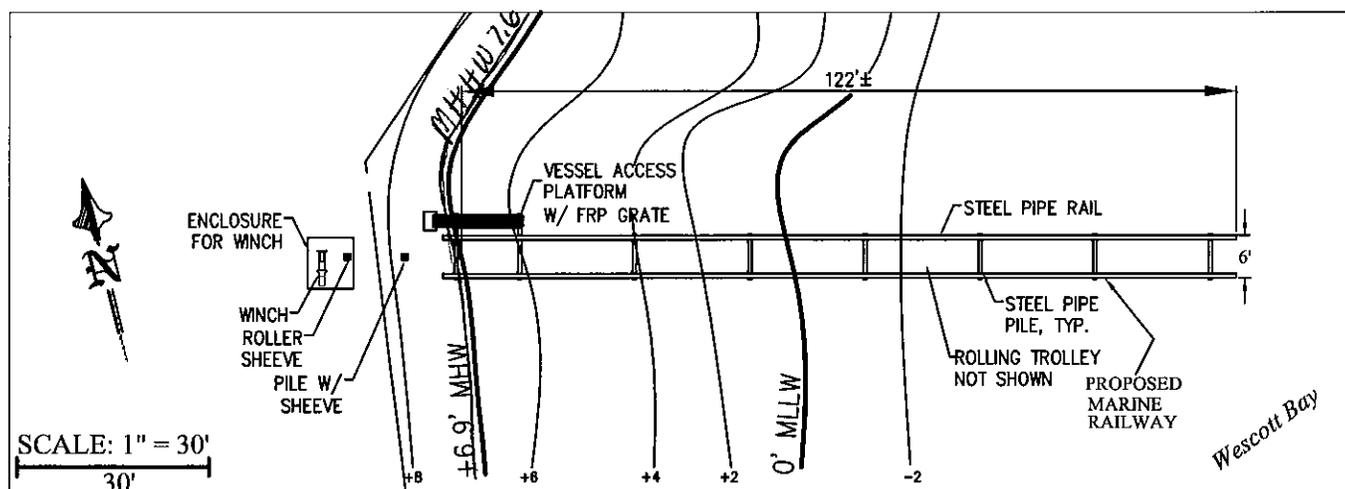
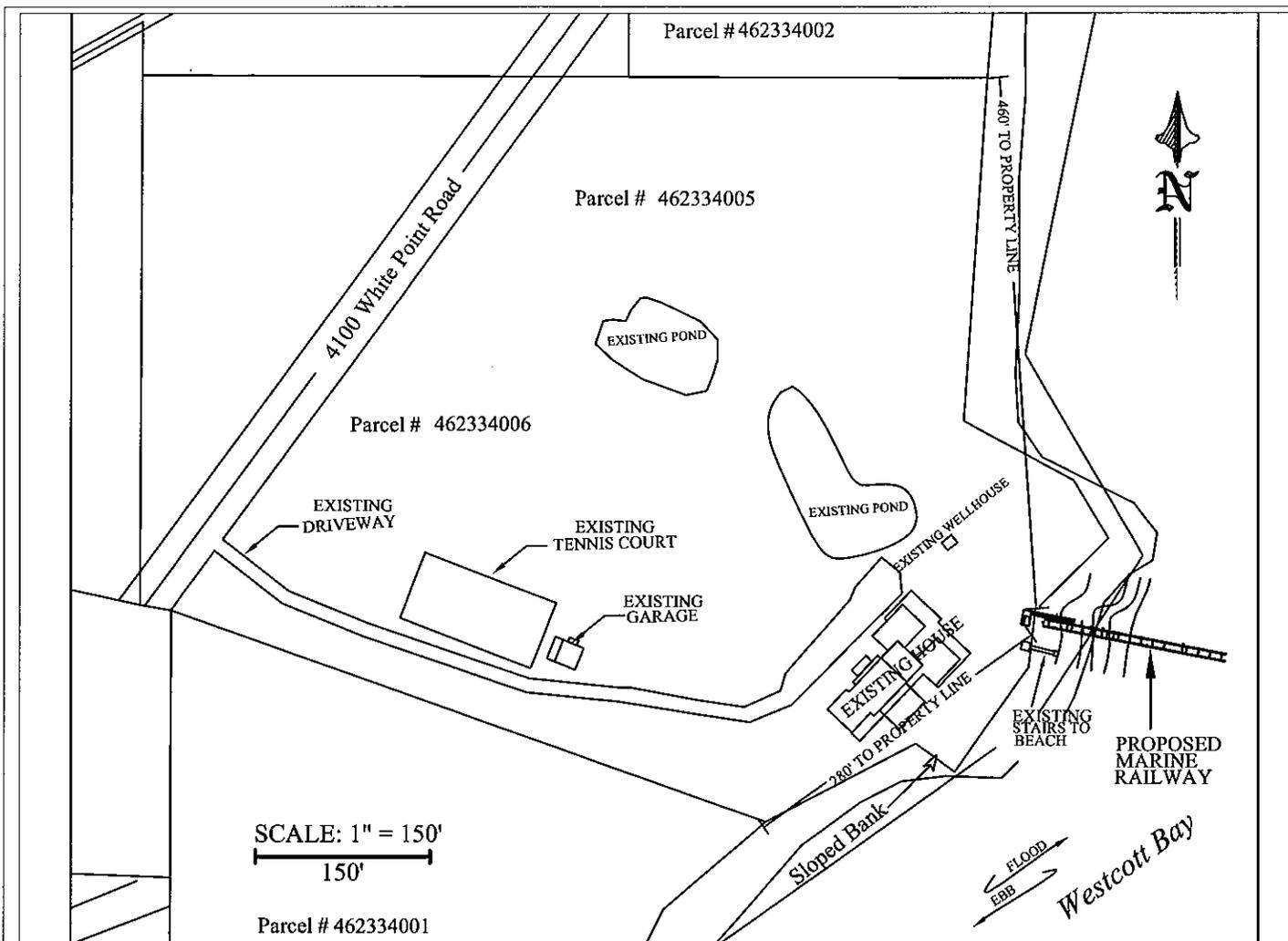
**VICINITY MAP**

**APPLICANT:** Lloyd & Sharon Powell  
725 Market Street  
Kirkland, WA 98033

**Parcel:** #462334006

**PROPOSED:** Construct Marine Railway  
**IN:** Westcott Bay  
**AT/NEAR:** Roche Harbor -San Juan Island  
**COUNTY:** San Juan

**DATE:** 11/11/04  
**SHEET 1 OF 3**



**PURPOSE:** Gain access to Westcott Bay

**DATUM:** N.O.S. MLLW=0'

**ADJACENT PROPERTY OWNERS:**

#462334002 Marian's on the Bay  
1803 Third Street N.E.  
Auburn WA 98002

#462334001 Jessica L. Erickson, ttec  
Post Office Box 389  
Mercer Island, WA 98040

**PLAN VIEW**

**APPLICANT:** Lloyd & Sharon Powell  
725 Market Street  
Kirkland, WA 98033

**Parcel:** #462334006

**PROPOSED:** Construct Marine Railway

**IN:** Westcott Bay

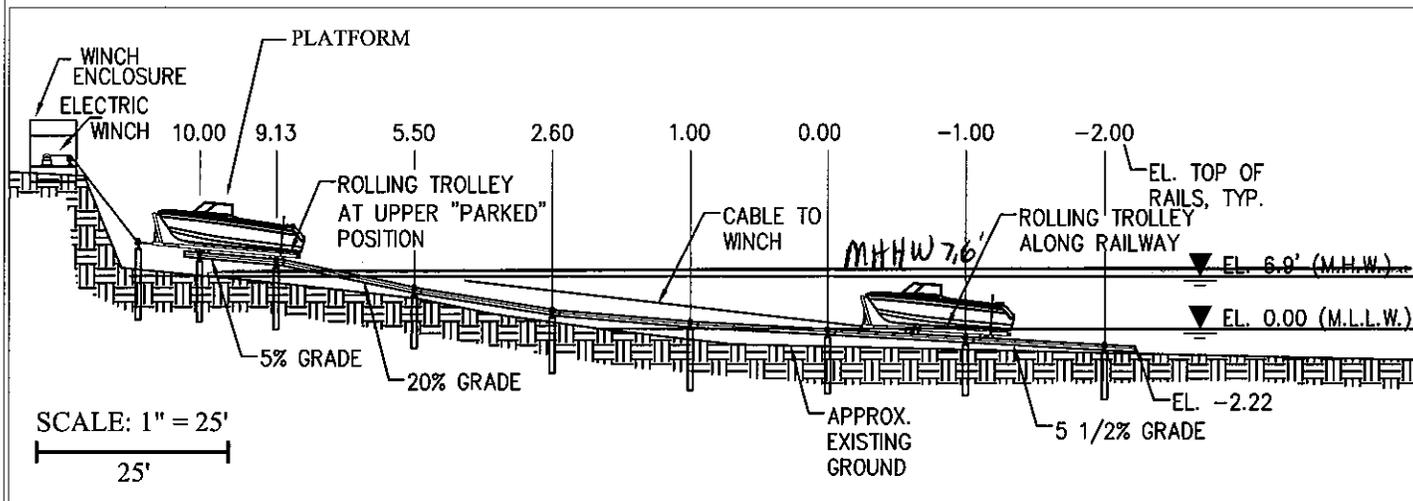
**AT/NEAR:** Roche Harbor -San Juan Island

**COUNTY:** San Juan

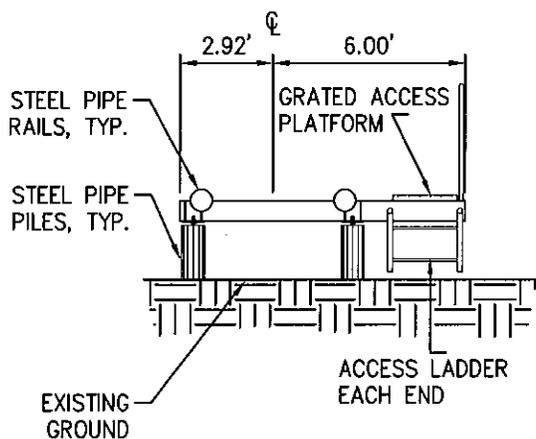
**DATE:** 11/11/04

**SHEET 2 OF 3**

## ELEVATION

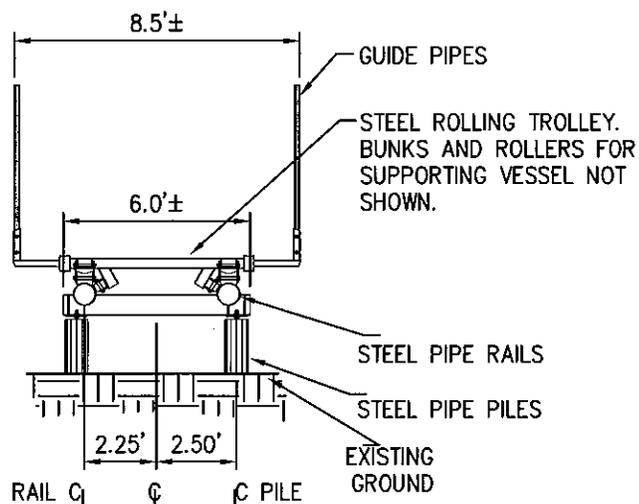


## PLATFORM CROSS SECTION



SCALE: 2" = 1'

## RAILWAY CROSS SECTION



SCALE: 2" = 1'

**PURPOSE:** Gain access to Westcott Bay

**DATUM:** N.O.S. MLLW=0'

**ADJACENT PROPERTY OWNERS:**

#462334002 Marian's on the Bay  
1803 Third Street N.E.  
Auburn WA 98002

#462334001 Jessica L. Erickson, ttee  
Post Office Box 389  
Mercer Island, WA 98040

## ELEVATION and CROSS SECTION

**APPLICANT:** Lloyd & Sharon Powell  
725 Market Street  
Kirkland, WA 98033

**Parcel:** #462334006

**PROPOSED:** Construct Marine Railway

**IN:** Westcott Bay

**AT/NEAR:** Roche Harbor -San Juan Island

**COUNTY:** San Juan

**DATE:** 11/11/04

**SHEET 3 OF 3**



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
*P.O. Box 47600 • Olympia, Washington 98504-7600*  
*(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006*

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Notice of Application for  
Water Quality Certification  
and for  
Certification of Consistency with the  
Washington Coastal Zone Management Program

Date: May, 31 2005

Notice is hereby given that a request has been filed with the Department of Ecology, pursuant to the requirements of Section 401 of the federal Clean Water Act of 1977 (PL 95-217), to certify that the project described in the U.S. Army Corps of Engineers Public Notice No. 200401476 will comply with the Sections 301, 302, 303, 306, and 307 of the Act, and with applicable provisions of State and Federal water pollution control laws.

Notice is hereby given that a request has been filed with the Department of Ecology, pursuant to the requirements of Section 307© of the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451), to certify that the above referenced project will comply with the Washington State Coastal Zone Management Program and that the project will be conducted in a manner consistent with that program.

Any person desiring to present views on the project pertaining to the project on either or both (1) compliance with water pollution control laws or (2) the project's compliance or consistency with the Washington State Coastal Zone Management Program may do so by providing written comments within 30 days of the above publication date to:

Federal Permit Coordinator  
Department of Ecology  
SEA Program  
Post Office Box 47600  
Olympia, Washington 98504-7600